

Deepak Moorjani

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"Kohlenberg, Kerstin" <Kerstin.Kohlenberg@zeit.de>   
To: DEEPAK  
AW: Links to Articles

May 13, 2009 2:03 PM

Hi Deepak,

oh yes, I read them and after that went to your script-page and read everything that is there.

What you discovered at Deutsche Bank in regards to almost 100percent loans and the connection to bonuses is exactly what apparently happened at Hypo Real Estate (only that they offered 160 percent commercial real estate loans which in German is actually against the law. I am researching that story right now) so I am a little familiar with the topic. I just did a story about Merkel and her advisers and how badly their bank-overview functions. (<http://www.zeit.de/2009/15/DOS-Kanzleramt>)

I believe what you discovered in a heartbeat. I think your demands for better risk management and a different incentive structure need more audience - and connected with that very case that you are presenting, it would make a big, big story. I write 8000 word features (kind of like a New York times Magazine Story) and I would very much write about you and the case you are making. There are a lot of people out there that demand change, but there is you who can show how rotten the system still is, and how the managers say one thing to the media and something else to people like you.

The fact that your letter was ccd to Angela Merkel makes it even more interesting, because I could confront her with it, and ask about her real interests in changing the system ( like she said on the G20 summit)

So any clue when you will be back in New York?

Kerstin

-----Ursprüngliche Nachricht-----  
Von: DEEPAK MOORJANI  
Gesendet: Mi 13.05.2009 18:50  
An: Kohlenberg, Kerstin  
Betreff: Links to Articles

Hi Kerstin,

Have you read these articles? If so, I'd welcome your thoughts.

A.

B.

Deepak

On May 14, 2009, at 12:57 AM, Kohlenberg wrote:

Deepak,

That's really unfortunate. When so you come back to the States?

Kerstin

Am 13.05.2009 17:51 Uhr schrieb "DEEPAK MOORJANI" unter

Hi Kerstin,

Unfortunately, I am stuck in Asia. Hearings are discontinuous, and I'm not sure when the next hearing will be. The April hearing was public, but most are closed hearings (including this Friday's hearing).

I'll recommend that we "meet" via videoconference. It's the next-best alternative and better than a phone call. Maybe even this weekend.

Thanks,  
Deepak

On May 14, 2009, at 12:10 AM, Kohlenberg wrote:

Hi Deepak,

Thanks again. Just two quick questions in order to plan my trip next

Chairman

# JUN MAKIHARA

Neoteny Co., Ltd.

Lotus Calyx 102, 2-22-3 Jiyugaoka, Meguro-ku, Tokyo 152-0035, Japan  
(2<sup>nd</sup> office)

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NY 212-358-1776  
E-mail jmakihara@neoteny.com

乙第四三号証  
一

② Deepak Moorjani  
02/08/2007 03:09 PM

To: Michael Cohrs/DMGIB/DMG UK/DeuBa@DBEMEA  
cc:  
Subject: Via Jun

Hi Michael,

Yes, I was. Bonus day turned into a bigger distraction than imagined. Apologies for the delay.

I've convinced the sponsor of a large JREIT to go private in an MBO transaction. It's fairly large transaction (\$1.7-1.8 billion), and if necessary, I would like to get your advice if we hit any major hiccups. Currently, we do not have any major issues, but I wanted to introduce myself well in advance in the event that I need some advice.

Thank you.

Deepak Moorjani  
Deutsche Securities Inc.

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Michael Cohrs/DMGIB/DMG UK/DeuBa@DBEMEA

①

Michael Cohrs/DMGIB/DMG  
UK/DeuBa@DBEMEA  
02/05/2007 10:54 PM

To: Deepak Moorjani/db/dbcom@DBAPAC  
cc:  
Subject:

I think you were trying to reach me--how can I help?

**From:** "Mail Delivery System" <MAILER-DAEMON@opc-ironport01.sec.gov>  
**Subject:** **Delivery Status Notification (Failure)**  
**Date:** January 12, 2009 12:23:31 PM GMT+05:30  
**To:** [deepak@sec.gov](mailto:deepak@sec.gov)

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5.x.0 - Message bounced by administrator

The Securities and Exchange Commission's e-mail system has blocked direct transmission of your message. If you believe it is important that your message reach the intended recipient, please call that individual to make other arrangements. Please do not reply to this message by e-mail.

We regret any inconvenience.

**\*\*SEC E-mail Administrator\*\***

Reporting-MTA: dns; opc-ironport01.sec.gov

Final-Recipient: rfc822;reidl@sec.gov  
Action: failed  
Status: 5.0.0 (permanent failure)  
Diagnostic-Code: smtp; 5.x.0 - Message bounced by administrator (delivery attempts: 0)

**From:** DEEPAK MOORJANI <[deepak@sec.gov](mailto:deepak@sec.gov)>  
**Date:** January 12, 2009 12:21:37 PM GMT+05:30  
**To:** Michael Cohrs <[michael.cohrs@db.com](mailto:michael.cohrs@db.com)>, David Hatt <[david.hatt@db.com](mailto:david.hatt@db.com)>  
**Cc:** Colin Grassie <[colin.grassie@db.com](mailto:colin.grassie@db.com)>, Anshu Jain <[anshu.jain@db.com](mailto:anshu.jain@db.com)>  
**Subject:** Deutsche Bank Satyagraha: Tokyo District Court (#4109)

**From:** DEEPAK MOORJANI <[deeps@moorjani.com](mailto:deeps@moorjani.com)>  
**Subject:** Deutsche Bank Satyagraha: Tokyo District Court (#4109)  
**Date:** January 11, 2009 at 10:48 PM

DM

**To:** **Cc:** Colin Grassie colin.grassie@db.com

PERSONAL AND CONFIDENTIAL

Mr. Michael Cohrs  
Mr. David Hatt  
Deutsche Bank Group  
Sanno Park Tower, 2-11-1 Nagatacho  
Chiyoda-ku, Tokyo 100-6171

Dear Messrs. Cohrs and Hatt,

This letter represents my continuing attempt to improve the inadequate governance structures and lax internal controls within Deutsche Bank. Specifically, the highlight is management's failure to perform, and this story began in late 2006 when I began to voice concerns internally. Management retaliated with allegations of non-performance and an eventual termination in violation of Japanese law. Management's reason for changing the subject was clear; management sought to keep its failures hidden while paying itself large, unearned "performance-based" compensation.

We are better than this, and as a firm, we need to raise the level of our dialogue. As an employee and shareholder, we must consider the following questions (i) Do we have the right management team in place? (ii) Do we have a system of checks and balances to align interests between managers and shareholders? and (iii) How do we improve the inadequate governance structures and lax internal controls? These questions are important to shareholders, as our stock has fallen 70% this year. These questions are important to employees, given the internal discussions to shrink the 80,000+ person worldwide workforce by as much as 30%.

In my opinion, shareholders should be furious. Management blames a "subprime crisis" or a "credit crisis" as if our recent write-downs and losses are caused by external events. As a Deutsche Bank employee, I believe our poor results are a "management debacle," the result of unfettered risk-taking, poor incentive structures and the lack of a system of checks-and-balances. Simply, management took too much risk, failed to manage this risk, and broke too many laws and regulations. As Warren Buffett stated, "The banks exposed themselves too much, they took on too much risk . . . It's their fault. There's no need to blame anyone else."

By refusing a proactive restructuring, management will be forced to (i) pursue a partial or full nationalization, or (ii) raise outside funds on terms and conditions that will prove highly dilutive and onerous for shareholders.

I have not resigned despite your attempts to force my resignation, and I remain ready to return to Deutsche Bank. As previously disclosed, I began a collective bargaining process in order to (i) affirm my status as an employee (ii) discuss management's failure to perform and (iii) remedy the inadequate governance structures and lax internal controls at Deutsche Bank. Unfortunately, neither David Hatt nor Michael Cohrs participated in the collective bargaining process.

As a result, I filed a public interest lawsuit in Tokyo District Court (Case #4109) in February 2008 with the assistance of Yasushi Higashizawa, a brilliant litigator based in Tokyo. In our claim, we are seeking to reaffirm my status as an employee, and we are hoping to minimize management's ability to abuse its power. We are not seeking damages. Unfortunately, Michael Cohrs and David Hatt have failed to appear at the hearings (March 21, 2008; May 20, 2008; July 1, 2008; September 12, 2008; October 15, 2008 and November 26, 2008).

- "Japanese labor laws tend to be very labor friendly, especially when compared to the labor laws from other Asian jurisdictions and countries such as the United States. There is no concept of "at-will" employment in Japan and the employer's right to terminate, transfer and discipline employees is limited by statute, case law and custom . . . Under the current legal regime, termination of an employment contract will be negated if the termination is considered an abuse of employer's rights. In fact, this "abuse" concept sets a very high hurdle for employers considering termination of employees, and imposes quite a high burden of proof on employers once the matter is brought to the courts. If the employer does not successfully prove that the termination was not an abuse of the employer's rights, the employee's typical remedy is to be reinstated into his or her position in the company. (DLA Piper, March 2008)

Our balance sheet is broken, and we have a limited ability to generate sufficient earnings. As management's failings become more obvious to the outside world, people are correctly raising concerns that our balance sheet will need to be repaired. "To raise this [core Tier 1] to 9.0%, still less than the de-risked Swiss banks, would require cEUR 6.2bn of common equity in the event of no dividend being paid for 2008. This represents 37% of the current market capitalisation, justifying why Deutsche Bank trades at 67% of tangible book." (Source: Nomura, Oct 31, 2008)





**PERSONAL AND CONFIDENTIAL**

Mr. Michael Cohrs  
Mr. David Hatt  
Deutsche Bank Group  
Sanno Park Tower, 2-11-1 Nagatacho  
Chiyoda-ku, Tokyo 100-6171

Dear Messrs. Cohrs and Hatt,

This letter represents my continuing attempt to improve the inadequate governance structures and lax internal controls within Deutsche Bank. Specifically, the highlight is management's failure to perform, and this story began in late 2006 when I began to voice concerns internally. In a unique paradox, management retaliated with allegations of non-performance and an eventual termination in violation of Japanese law. Management's reason for changing the subject was clear; management sought to keep its failures hidden while paying itself large, unearned "performance-based" compensation.

We are better than this, and as a firm, we need to raise the level of our dialogue. As an employee and shareholder, we must consider the following questions (i) Do we have the right management team in place? (ii) Do we have a system of checks and balances to align interests between managers and shareholders? and (iii) How do we improve the inadequate governance structures and lax internal controls? These questions are important to shareholders, as our stock has fallen 70% this year. These questions are important to employees, given the internal discussions to shrink the 80,000+ person worldwide workforce by as much as 30%.

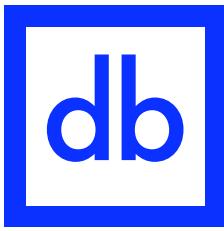
Introduction

In an April 14, 2008 letter addressed to David Hatt, I wrote, "In my estimation, we will announce at least \$10-15 billion in write-downs related to our credit exposure in a twelve month period. For Deutsche Bank, the status quo is no longer acceptable, as these large losses have increased and will increase scrutiny into our performance. Shareholders should call for greater accountability, especially relating to Deutsche Bank management. In recent media reports, I have begun to read criticism from shareholders and the general public, and some interpret inadequate corporate governance structures and lax internal controls as contributory to our large write-downs."

As recently reported, "The investment-banking unit, led by [Anshu Jain](#) and [Michael Cohrs](#), reported a third straight quarterly pretax loss of 789 million euros. The German bank booked writedowns of 1.2 billion euros on loans for leveraged buyouts, residential-mortgage backed securities, assets secured by bond insurers and commercial real estate. That brings total markdowns to about 8.5 billion euros since last year . . . Rules easing requirements for marking down investments reduced writedowns for the quarter by 845 million euros to 1.2 billion euros."

In my opinion, shareholders should be furious. Management blames a "subprime crisis" or a "credit crisis" as if our recent write-downs and losses are caused by external events. As a Deutsche Bank employee, I believe our poor results are a "management debacle," the result of unfettered risk-taking, poor incentive structures and the lack of a system of checks-and-balances. Simply, management took too much risk, failed to manage this risk, and broke too many laws and regulations. As Warren Buffett stated, "The banks exposed themselves too much, they took on too much risk . . . It's their fault. There's no need to blame anyone else."

By refusing a proactive restructuring, management will be forced to (i) pursue a partial or full nationalization, or (ii) raise outside funds on terms and conditions that will prove highly dilutive and onerous for shareholders.



### Structure and Compensation

Within Deutsche Bank, there is a strong economic disconnect between management and shareholders, and in my opinion, the culture of Other People's Money ("OPM") is highly contributory to our losses. For perspective on the management debacle, we should consider our write-downs in the context of the firm's earnings over the past several years. The €8.5 billion in write-downs is equivalent to 42.6% of the €19.955 billion in net income earned in the 5-year period of 2003-2007 and 115% of the €7.366 billion in net income earned in the 3-year period of 2003-2005. (Note: We consider the "announced" write-downs of €8.5 billion; this amount excludes write-downs avoided by regulatory relaxation as well as write-downs avoided by loan sales.)

The public outcry relating to executive compensation is highly justified. In our case, management has "eviscerated the concept of moral hazard" and systematically adopted pay schemes that reward excessive risk-taking despite the long-term implications. While management has publicly downplayed its failures ("As late as November [2007], Ackermann signaled he saw no further writedowns and stood by his 2008 pretax profit goal of 8.4 billion euros, a target that has since been quietly dropped."), management used its informational advantage to justify large compensation packages to its top managers despite a stated pay-for-performance culture (a recent Financial Times article explained "It was also revealed that "Deutsche paid €97.1m in 2007 to six members of its global executive committee, compared with €99.7m in 2006. The committee members include Deutsche's top investment bankers such as Anshu Jain, head of global markets, and Michael Cohrs, head of global banking.").

Our actions relating to executive compensation contrast with our public disclosures which state, "Effective corporate governance in accordance with high international standards is a part of our identity. We ensure the responsible, value-driven management and control of Deutsche Bank through our system of corporate governance, which has four key elements: good relations with shareholders, effective cooperation between the Management Board and the Supervisory Board, a system of performance-related compensation for managers and employees, as well as transparent and early reporting."

### The Core Issue: Management's Failure to Perform

Management's suppression of internal dissent results from management's desire to conceal its failures. Even though its compensation is implicitly (and often explicitly) guaranteed, management was unwilling to admit its performance failures; instead, management is abusing its power by seeking to squash internal dissent.

The Japan office, the worst-performing office within DBG, offers a case study. According to reports released on February 13, 2007, Mr. Hatt officially joined Deutsche Bank as "Regional CEO and Chief Country Officer for Deutsche Bank Group in Japan, responsible for coordinating the Group's business activities." Mr. Hatt joined Deutsche Bank with a 2-year guaranteed contract which pays approximately €5,000,000 in compensation per year, and Mr. Hatt replaced John T. Macfarlane who resigned as President and CEO in December 2006. Mr. Hatt also assumed P&L responsibility for Global Banking until "the appointment of David Shrenzel as Head of Global Banking, Japan, effective from February 1, 2008. Mr. Shrenzel assumes the post from David Hatt, President & CEO of DSI, who has held the post on an interim basis."

Notwithstanding a history of weak performance, Global Banking management made aggressive projections for fiscal 2007. Management committed to grow revenues by 82% to €130,000,000 and to deliver €50,000,000 in NIBBT for this historically unprofitable business. To achieve these goals, management sought to utilize more than €2 billion of capital and sought to increase personnel to more than 150 employees. These aggressive projections were made despite weak historical performance in Global Banking. In 2006, Global Banking delivered €50,410,000 in revenues with €2,462,000 of NIBBT. In 2005, Global Banking delivered €49,607,000 in



revenues with €6,445,000 of NIBBT. Despite increasing personnel from 92 in 2005 to 120 in 2006, fiscal 2006 revenues grew by less than 2%, and NIBBT decreased by more than 60%. (Note: NIBBT = Net Income Before Bonuses and Taxes).

The largest component of Global Banking's 2007 revenue was projected to come from the Commercial Real Estate (CRE) lending business, and management promised to deliver €50,000,000 in CRE revenues in 2007, an increase of 55% from the €32,263,000 of revenues delivered in 2006. Additionally, the Commercial Real Estate lending business was projected to deliver nearly €35,000,000 in NIBBT and to grow personnel from 27 employees in 2006 to 46 employees in 2007. Management sought to deliver its projections for the Commercial Real Estate lending business by aggressive utilization of the Deutsche Bank balance sheet; in January 2007, the Commercial Real Estate lending business utilized €1,578,600,000 of Deutsche Bank assets, approximately 95% of the total corporate finance portion of Global Banking balance sheet.

Even with "unnecessary and excessive" risk-taking, management was significantly behind its P&L projections by mid-2007 despite a very favorable environment. By mid-2007, Global Banking had delivered approximately €30,000,000 in revenues (less than 25% of its projections) and approximately €1,000,000 in NIBBT (2% of its projections). (Note: Management reports a total Global Banking balance sheet of €2,536,500,000; however, €1,660,900,000 is allocated to corporate finance and €619,900,000 is allocated to Global Transaction Banking, a more stable and profitable business. The component numbers indicate a total Global Banking balance sheet of €2,280,800,000. In its reports, management has left the residual amounts unallocated).

#### Retaliation: Management's Abuse of Power

As background, I have an investment management background with more than fifteen years of private equity experience. In this role, I have been responsible for managing governance issues for a number of portfolio companies, with a particular focus on aligning incentives between management teams and investors. I joined Deutsche Bank to build an investment business in 2006, and I quickly became concerned by our inadequate corporate governance structures and lax internal controls.

Internally, management's aggressive use of the Deutsche Bank balance sheet was shocking, and I distributed a summary economic analysis on our commercial real estate lending activities. With limited information, I concluded, "We would generate more profits in the carry trade." This January 2007 email was distributed to several of my colleagues, and my conclusion was simple: our real estate lending activities in Japan did not make economic sense. Our uneconomic activity was not limited to a small pool of capital; at the time, we had nearly €1.6 billion in exposure. Given the illiquidity of these positions as well as the tight spreads, I did not believe that the risk inherent in this lending activity would make sense to a prudent investor.

I constructively raised explicit concerns in an internal April 12, 2007 letter to Michael Cohrs which also stated, "I have witnessed violations of Japanese securities laws. These violations are numerous and willful, and these violations may have triggered criminal liability." In part, this conclusion was based on a presentation by our legal department entitled, "Financial Instruments & Exchange Law ("FIEL"), March 16, 2007 Version." In this document, we were advised that criminal penalties were possible based on violations including false statements in internal control reports and market price manipulation.

My letter to Michael Cohrs was personal and confidential based on prior correspondence and numerous mutual friends and former colleagues (John Sheldon, Steve Bannon, Scot Vorse, Matt Czajkowski and Jun Makihara). Unfortunately, management responded with an explicit retaliatory campaign of threats, intimidation and reprisals based on allegations of non-performance; however, there is no record of non-performance allegations prior to my letter to Michael Cohrs. Retaliation is illegal under Japanese law, and management's



actions should be viewed as an abuse of power. While management's desire to suppress internal dissent is most likely an attempt to conceal its failures to perform, management's retaliation may also demonstrate a knowing attempt to conceal violations of law.

We are better than this, and as a firm, we need to raise the level of our dialogue. While some of my commentary may have offended powerful interests, it is in our best interest to address these issues proactively. As Edward R. Murrow offered, "We must not confuse dissent with disloyalty," and loyalty to management should not be inconsistent with our fiduciary duty to our shareholders. Rather than retaliation, we should encourage people to report corporate malfeasance and corporate misconduct. This is an essential part of risk management.

#### Public Interest Litigation

In the tradition of Gandhi's satyagraha, I deliver 就労請求 as my right and obligation under Japanese law.

*"Japanese labor laws tend to be very labor friendly; especially when compared to the labor laws from other Asian jurisdictions and countries such as the United States. There is no concept of "at-will" employment in Japan and the employer's right to terminate, transfer and discipline employees is limited by statute, case law and custom . . . Dismissal and disciplinary action are invalid because it is an abuse of employer's right when such dismissal / disciplinary action is unreasonable and socially inappropriate (Articles 15 and 16)."*

I have not resigned despite your attempts to force my resignation, and I remain ready to return to Deutsche Bank. As previously disclosed, I began a collective bargaining process in order to (i) affirm my status as an employee (ii) discuss management's failure to perform and (iii) remedy the inadequate governance structures and lax internal controls at Deutsche Bank. Unfortunately, neither David Hatt nor Michael Cohrs participated in the collective bargaining process.

As a result, I filed a public interest lawsuit in Tokyo District Court (Case #4109) in February 2008 with the assistance of Yasushi Higashizawa, a brilliant litigator based in Tokyo. In our claim, we are seeking to reaffirm my status as an employee, and we are hoping to minimize management's ability to abuse its power. We are not seeking damages. Unfortunately, Michael Cohrs and David Hatt have failed to appear at the hearings (March 21, 2008; May 20, 2008; July 1, 2008; September 12, 2008; October 15, 2008 and November 26, 2008).

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#### Solutions

Andrew Cuomo says it well: "I believe that rebuilding trust in our capital markets requires executive compensation packages that are rational, fair and based on bona fide performance measures that are disclosed to the public. We must ensure that executive pay package structures no longer create improper incentives for executives to overleverage their companies and manipulate the books for their own short-term financial benefit."

For nearly two years, I have been striving to address the internal issues relating to structure and compensation. The solutions proposed have included: (i) increasing transparency by taking our mark-to-market losses, (ii) addressing the asymmetric incentive structure by instituting retroactive clawbacks, (iii) pursuing a management buyout of the investment banking business, and (iv) solving the board independence issue.



Management's unwillingness to participate in this process is interpreted as a desire to avoid accountability; however, management has a moral and fiduciary obligation to our stakeholders to disclose and discuss these issues, and management has authority to institute and execute the necessary improvements. Instead, management has retaliated in order to protect its own self-interests, and in this period, management has announced more than 8.5 billion euros in write-downs. It must be obvious to shareholders that the abnormally high net income results of the past few years were illusory, and these illusions were submitted to the public in order to allow management to claim "performance-related" compensation.

It may no longer be appropriate to say, "Strategically, our path is clear: we stay the course!" and we cannot simply blame accounting rules for our troubles. To quote one observer, "To repeat one more time: fair value reporting is nothing new; firms have always had to report assets at what they're worth. Statement 157 did not extend fair value reporting to any new areas of balance sheets; it just gave investors more information about the integrity of fair values reported. And right now, integrity is pretty far out of fashion when it comes to the banking industry and Congress."

Please also reconsider our public statements relating to the significant risk remaining on our balance sheets. From 2006 to 2007, our Level 3 assets more than doubled to 88 billion euros, but mark-to-model is not an appropriate substitute for market valuations. In reality, management has chosen to classify impaired assets as "Level 3" in order to avoid further mark-downs. The argument that there is "no liquid market" is not tenable; the illiquidity in this "market" simply results from the discrepancy in price expectations. The buy-side is generally ahead of the sell-side on these issues, and management is simply seeking to avoid further loss recognition.

#### Summary

We should begin an honest dialogue to address management's failure to perform. Sometimes, big problems can result from seemingly small problems, and it is in our best interests to address these issues proactively. Within our firm, we have a moral responsibility to each other, and we have a fiduciary responsibility to our investors. We have made explicit promises to our investors and to the general public; these are not merely stated ideals but explicit promises which have been filed with various regulatory bodies around the world.

Our balance sheet is broken, and we have a limited ability to generate sufficient earnings. As management's failings become more obvious to the outside world, people are correctly raising concerns that our balance sheet will need to be repaired. "To raise this [core Tier 1] to 9.0%, still less than the de-risked Swiss banks, would require cEUR 6.2bn of common equity in the event of no dividend being paid for 2008. This represents 37% of the current market capitalisation, justifying why Deutsche Bank trades at 67% of tangible book." (Source: Nomura, Oct 31, 2008)

"Delay is no longer an option. Denial is no longer an acceptable response." Please provide your written response to the issues raised in this letter to Yasushi Higashizawa of Kasumigaseki Sogo Law Offices at your earliest convenience. (*Contact info: Nishi-Shinbashi Aiko Bldg 4F, 1-6-15 Nishi-Shinbashi, Minato-ku, Tokyo 105-0003, Japan. Tel: +813.3501.2651 and Fax: +813.813.3539.3683*).

Please join me in this conversation. Together, we can make a difference.

Sincerely,

*Deepak Moorjani*  
東京都千代田区永田町2丁目11番1号

cc: Anshu Jain, Deutsche Bank AG  
Colin Grasse, Deutsche Bank AG



## ACCOUNTABILITY AND TRANSPARENCY

We should create a long-term, positive sum game for all stakeholders. In order to improve our system of accountability and transparency, Deutsche Bank management is asked to respond to the following comments.

### ALIGNMENT OF INTERESTS

Shareholders typically seek to reduce the "agency costs" incurred from divergent management-shareholder objectives and information asymmetry. In other words, shareholders seek to minimize the conflicts of interest incurred by having a management team run its business. Two ways to minimize these conflicts of interests are (i) management ownership of shares and (ii) a system of variable compensation which pays managers some portion of shareholder earnings. In our case, members of the Supervisory Board own less than 0.03% (128,073) of Deutsche Bank AG shares. While we reported €6.5 billion of net income after minority interest in fiscal 2007, we have also announced more than €8.5 billion of write-downs in the ensuing months. Still, we "paid €97.1m in 2007 to six members of its global executive committee, compared with €99.7m in 2006. The committee members include Deutsche's top investment bankers such as Anshu Jain, head of global markets, and Michael Cohrs, head of global banking."

We need to reconsider our system of guaranteed compensation for management. In our public documents, we might argue that these contracts are the exception rather than the rule; however, the size of management's compensation contracts needs to be considered. As an example, Global Banking was a money-losing operation in 2005, 2006 and 2007 by any traditional measure of performance, and the division is on track to repeat this performance in 2008 (net income, residual income, etc). David Hatt, Frank Forelle, and Doug Smith have large multi-year guaranteed contracts, and each continues to manage unprofitable businesses which consume more than €2 billion of capital. Despite these failures to perform, these three managers are likely paid more than 25% of the entire Global Banking operation in Deutsche Bank's Japan office.

Given management's failure to perform, is it necessary to guarantee management's compensation? How is this consistent with our public disclosures which claim "a system of performance-related compensation for managers and employees?" Not only do these guaranteed contracts demonstrate a system of asymmetric compensation, but this excessive compensation distorts incentives and destroys morale for the 80,000+ Deutsche Bank employees.

Here are some suggestions to address the issues of structure and compensation

- (i) Eliminate guaranteed employment contracts for management
- (ii) Use ROE rather than NIBBT (net income before bonuses and taxes) as measure of performance. Capital has a cost, and bonuses are always paid. NIBBT was only created to create the illusion of profitability.
- (iii) Propose that the owners of the company (shareholders) have the final approval on management's compensation, via a "say-on-pay" proposal at the annual general meeting
- (iv) Reconsider the independence of the Supervisory Board
- (v) Encourage management to invest more of its wealth in the business in order to eliminate the principal-agent problem. This should be done by management purchases of shares, not extra grants of options or shares. This would help to minimize the culture of OPM (Other People's Money) within the firm
- (vi) Study and analyze a management buyout of the investment banking business. This is a more aggressive version of (v) and would have the added benefit of insulating shareholders from the highly-variable earnings of the investment banking division



### RISK MANAGEMENT AND CAPITAL ALLOCATION

A financial institution can generate profits through the careful use of its capital base. With our recent write-downs and attendant balance sheet weakness, we need to reconsider our approach to risk management and capital allocation. Some thoughts and questions include:

- Our lending activities might be considered aggressive. For instance, Deutsche Bank was approached in late 2006 to finance a large transaction. The CRE lending business responded with a proposal to lend JPY 220 billion (approximately \$2.2 billion), nearly 94% of the asset's loan-to-value (LTV). The real estate was being acquired at a going-in cap rate of 2.74%. Given the aggressive pricing, how much of this loan could we have securitized and how much of this loan would necessarily remain on the Deutsche Bank balance sheet? Did management view this as an aggressive proposal? On what economic basis was this considered desirable business?
- Why did management want to grow an unprofitable business? In January 2007, I concluded, “After basic costs, we earn 1.4% ROC (Return on Capital) . . . We would generate more profits in the carry trade.” Despite limited information, my conclusion was correct: our real estate lending activities in Japan did not make economic sense. With more information, we understand that this business is actually unprofitable. In 2006, management delivered €32.2 million in revenues with €2.46 million of NIBBT. If we consider a modest cost of capital for the €1.6 billion of capital utilized as well as the guaranteed bonuses, this business lost more than €30 million in 2006. Based on these results, why did management seek to expand this business? With a January 2007 balance sheet of €1.6 billion, the average CRE employee used €58 million of Deutsche Bank assets in order to generate €1.2 million in unprofitable revenue in 2006. How does this constitute a rational use of our balance sheet?
- In 2006, there was already concern about the CRE lending exposure internally (“clean up balance sheet, improve return on risk weighted assets as CRE-Japan is 10% of global RWA, yet just 4% of overall revenues”). One way to “clean up” the balance sheet was to securitize the assets, and one prediction was to “target 4-6 in 2007 . . . JPY 100+ b in securitized issuance is expected.” How many securitized transactions were conducted in 2007, and how much was securitized? Why was more than half of our loan volume actually held-to-maturity? In order to win originations, do we systematically underwrite loans on terms and conditions that prevent securitization? If Deutsche Bank gives bonus credit for Net Interest Margin (NIM), might managers have an incentive to hold balance sheet loans to maturity rather than to securitize this risk? Our public statements might indicate that this is an “originate and distribute” business, but the evidence and the incentives structure indicates that it is an “originate and hold” business. Is it more accurate to characterize CRE as a balance sheet lending business rather than as a securitization business?
- How involved was Credit Risk Management (CRM) in the commercial real estate loan origination process? If only personnel from London and New York were involved, would this limit CRM’s ability to understand the transactions being conducted? How extensive was the portfolio management? Prior to production of the report entitled “CRE Japan, Balance Sheet March 2007,” how many people in commercial real estate knew our lending positions? How often was this type of portfolio report produced? If this was the first portfolio report generated in more than one year, were there other ways for people to track and manage our lending positions?
- The Global Transaction Business delivered €26.6 million in net revenues and €13.5 million in NIBBT. This is a stronger and more stable business which only used €619.9 million of Deutsche Bank balance sheet. Why did management decide to underinvest resources in this business?



## **Richard H. Walker Elected to MBIA's Board of Directors**

ARMONK, N.Y.--(BUSINESS WIRE)--Sept. 14, 2006--MBIA Inc. (NYSE: MBI) announced today that Richard H. Walker was elected to MBIA's Board of Directors. Mr. Walker is the general counsel of Deutsche Bank, where he oversees the Legal and Compliance departments worldwide.

Before joining Deutsche Bank in 2001, Mr. Walker was director of the Division of Enforcement for the Securities and Exchange Commission (SEC). Preceding his appointment to that position, he served as general counsel and northeast regional director since joining the SEC in 1991. Prior to the SEC, Mr. Walker spent 15 years in the New York office of Cadwalader, Wickersham & Taft, where he was a litigation partner specializing in corporate, securities and commercial litigation.

MBIA Board Member and Nominating/Corporate Governance Committee Chair Claire Gaudiani said, "Richard's impressive legal, compliance and financial expertise will add important depth to our Board. We are delighted to have him join us, and are confident that the experience he's gained throughout his remarkable career will provide an invaluable asset as we guide MBIA's continued growth in the global financial guarantee marketplace."

While at the SEC, Mr. Walker was awarded the Presidential Rank Distinguished Service Award in 1997--the highest federal award for government service. He also received the SEC's Distinguished Service Award, and the Chairman's Award for Excellence.

Mr. Walker is a member of the New York Stock Exchange Legal Advisory Committee, and is a trustee of the Securities and Exchange Commission Historical Society and the American Folk Art Museum. A Phi Beta Kappa graduate of Trinity College, Mr. Walker received his J.D. degree, cum laude, from Temple Law School.

MBIA Inc., through its subsidiaries, is a leading financial guarantor and provider of specialized financial services. MBIA's innovative and cost-effective products and services meet the credit enhancement, financial and investment needs of its public and private sector clients, domestically and internationally. MBIA Inc.'s principal operating subsidiary, MBIA Insurance Corporation, has a financial strength rating of Triple-A from Moody's Investors Service, Standard & Poor's Ratings Services, Fitch Ratings, and Rating and Investment Information, Inc. Please visit MBIA's Web site at [www.mbia.com](http://www.mbia.com).

CONTACT: MBIA Inc.  
Liz James, 914-765 3889

SOURCE: MBIA Inc.

# **Mark Grolman**

Managing Director

General Counsel, Australasia & Japan

Deutsche Bank AG - Australia & New Zealand

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[mark.grolman@db.com](mailto:mark.grolman@db.com)

**Deutsche Bank**



(2) Daiki Kajino/db/dbcom  
2007/05/09 19:19

To Tomohiko Kimura/Tokyo/DBJapan/DeuBa@DBAPAC  
cc  
bcc  
Subject Fw: Staff - Privileged & Confidential

Kimura-san

As we discussed in this morning, I explained the current situation to Murakami-san in HR.  
After that, I arranged conference call with Sunil Madan and it is already fixed on tomorrow at 17:00 (Tokyo Time).

Murakami-san and I will have a conference call with him and ask him about our concerns.  
If you need to join it, please let me know.

As to investigation of Frank's e-mail for Pipeline issue, I will start it as soon as I obtain Mitch's approval.

Regards,

☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆  
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----- Forwarded by Daiki Kajino/db/dbcom on 2007/05/09 19:13 -----

(1) Mark  
Grolman/Sydney/DBAustralia  
/DeuBa@DBAPAC  
2007/05/09 19:09

To "Dick Walker" <richard.h.walker@db.com>,  
janice.reznick@db.com, rachel.blanshard@db.com,  
jiana.leung@db.com, "Kiyoshi Murakami"  
<kiyoshi.murakami@db.com>, "Andrew Hume"  
<andrew.hume@db.com>, "Daiki Kajino" <daiki.kajino@db.com>,  
"Mr. Tomohiko (Tom) Kimura" <tomohiko.kimura@db.com>

cc

Subject Staff - Privileged & Confidential

#### PRIVILEGED & CONFIDENTIAL

Below are draft notes of the interview I had with Frank Forelle yesterday.

#### NEXT STEPS

I suggest for your consideration that the next steps should be:

(a) we interview Sunil Madan. Tom Kimura has agreed to do that by telephone as soon as possible this week;

(b) when Deepak Moorjani returns to Tokyo from the US next week, we press him again to produce all evidence he has of any alleged violations or wrongdoing. In the two weeks since he was interviewed he has not produced any evidence;

(c) agree a letter to Mr Moorjani in response to his letter. I suggest that this letter be signed by David Hatt as President and CEO of DSI (the employer of Mr Moorjani). David Hatt has been briefed on this matter. I will draft the response letter for your review. Once agreed, that letter should be delivered to Mr Moorjani.

I also propose giving the draft notes of meeting to Frank Forelle to check for accuracy.

Daiki Kajino/db/dbcom  
 2007/05/21 18:05  
 To Tomohiko Kimura/Tokyo/DBJapan/DeuBa@DBAPAC  
 cc Bret Dandoy/Tokyo/DBJapan/DeuBa@DBAPAC, Mitchell  
 Mason/Tokyo/DBJapan/DeuBa@DBAPAC, Kiyoshi  
 Murakami/db/dbcom@DBAPAC  
 bcc  
 Subject [Confidential] Frank Forelle's e-mail

Kimura-san

Here is the result of Frank Forelle's e-mail box review.

**[Focus]**

Review Mr. Forelle's e-mail box and check if there is any "Deal Pipeline Report" as Deepak Moorjani pointed out at the interview.

**[Summary]**

There were several type of "Pipeline Report" which is shared by DB/CRE Management (Sunil Madan) and Mr. Forelle.  
 However, I could not find any report which covers details of individual deal, so I believe there is no "Deal Pipeline Report" as Mr. Moorjani insisted on.

**[Details]**

1. Management Report

There were three "Management Report" founded from Mr. Forelle's e-mail.  
 In those reports, DB Tokyo's information, such as expecting revenue amount from individual deals, probability of those deals and balance sheet information, are included.  
 However, there was no "Non-Public Client Information" included, therefore these cases do not breach Firewall regulation.

- 2006.11.11 John Griffin(NY) to Frank Forelle(DSI) and Sunil Madan(DB)
- 2006.11.17 Austen Gardiner(NY) to Frank Forelle(DSI) and Sunil Madan(DB)
- 2006.11.21 Sunil Madan(DB) to Frank Forelle(DSI)

2. Ad-hoc discussion between DSI and DB

I found one e-mail which was sent by Mr. Madan(DB) to Mr. Forelle(DSI) asking to have a call about specific deals.  
 In the e-mail, Mr. Madan mentioned 5 individual deals. It is highly possible that they had a discussion over those deals, however it does not consist any breach since there are proper ISA for all of them.

- 2006.11.09 Sunil Madan(DB) to Frank Forelle(DSI)

<Deal Name>	
Secured	ISA was obtained on 2006.04.03 from Secured Capital Japan
FL1	Sucuritization Project for existing DB Tokyo's loan
Rice Eater	ISA was obtained on 2006.03.07 from Blue Sky Fund Ltd.
BJT	ISA was obtained on 2006.10.24 from Bobcock & Brown
Single Crown	ISA was obtained on 2006.07.27 from Merrill Lynch

3. Weekly Pipeline Meeting

There is an e-mail evidencing "Weekly Pipeline Call" between DB Tokyo, DSI and DBSI(NY) exist.  
 However, e-mail does not show any evidence for Firewall Breach.

- 2006.10.24 Austen Gardiner(NY) to Frank Forelle(DSI) and Sunil Madan(DB)

**[Review Method]**

- Searched by "pipeline" for all e-mails / Review the contents of those hitted mails
- Read all mails (166mails) between September to the end of December which come from/ went to Sunil Madan(Sunil Madan was appointed Head of DB/CRE on 2006.09.25 and left DB Tokyo on 2007.01.01)

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**Deutsche Bank**

**Richard H. Walker**  
General Counsel

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[richard.h.walker@db.com](mailto:richard.h.walker@db.com)

January 29, 2008

Mr. Gary C. Dunton  
Chief Executive Officer and President  
MBIA Inc.  
113 King Street  
Armonk, NY 10504

Dear Gary:

I have concluded that I should resign from MBIA's Board. I do so with great regret and only after very careful consideration of the interests of both MBIA and Deutsche Bank.

When I joined MBIA's Board in 2006, existing business relationships between MBIA and Deutsche Bank provided no basis to believe that I would be unable to give both institutions my full attention and undivided loyalty. Given the events of the past week, however, I am now in a position where I can no longer be confident that continuing to act on behalf of both institutions will not lead to the possibility of an appearance that I may have reason to favor one over the other on a matter of great importance to both. In these circumstances, my ability to continue to act on behalf of either institution may be constrained. Given the importance of restoring credibility in the marketplace, I would not want my role to become a distraction to ongoing efforts to achieve this goal.

I am proud to have been associated with MBIA, and I would have liked to continue serving on MBIA's Board. I leave the Board with great affection for all my fellow directors and with appreciation for their wisdom and dedication. I would also be remiss if I did not applaud the exceptional MBIA staff. I am confident that this top-flight staff, with the Board's support, will guide MBIA to future successes.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard H. Walker". It is written in a cursive, flowing style.

Richard H. Walker

cc: Members of the Board of Directors